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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,264	06/29/2001	Alan C. Noble	05110-034001	8039

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EXAMINER

TRUONG, CAMQUY

ART UNIT PAPER NUMBER

2195

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/896,264	Applicant(s) NOBLE, ALAN C.	
	Examiner Camquy Truong	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/9/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-29 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title is imprecise.

Claim Objections

3. Claims 9 -14 are objected to because of the following informalities:
 - (a). As to claim 9, line 8, missing " on the ". Appropriate correction is required.
 - (b). As to claim 10, line 12, missing " on". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. The following terms lack proper antecedent basis:
 - i. The software – claim 1;
 - ii. The corresponding process – claim 27;

- iii. The ability – claim 28;
- b. The claim language in the following claims is not clearly understood:
 - i. As to claim 1, line 11, it is not clearly understood how the process can be changed (i.e. base on what criteria?).
 - ii. As to claim 17, line 6, it is not clearly indicate what type of operation? (i.e. process?).
 - iii. As to claim 27, line 10, it is not clearly understand which one of the processes (i.e. parsing, layout, rendering or all of them).
 - iv. As to claim 29, line 19, it is not clearly understand which one of the processes (i.e. parsing, layout, rendering or all of them).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando (U.S. Patent 6,678,715 B1) in view of Applicant Admitted Prior Art (AAPA).

8. As to claim 1, Ando teaches the invention substantially as claimed including: A client-server computing process (col. 3, lines 65-66), the computing process comprising:

Initiating a request at a client (col. 9, lines 63-64; col. 13, lines 13-23);
Communicating the request to the server (col. 4, lines 1-2; col. 9, lines 65-66);
Responding to the request at the server by returning information to the client (col. 3, line 65- col. 4, line 3; col. 8, lines 50-57), wherein the information returned goes at least component decoding section (Fig. 6-7);

Configuring the software carrying out at least one of the component decoding section and layout processes so that the location at which the process is performed can be changed between server and client at run time (Fig. 6-7; col. 4, lines 7-16; lines 38-41; col. 5, line 66- col. 6, lines 17; col. 9, line 59 – col. 10, line 4; col. 11, line 60 – col. 12, line 9; col. 12, lines 44-54; col. 41, lines 2-6);

Making a load-balancing determination as to whether the process should be run at the server or client (col. 4, lines 14-16 and 26-41; col. 12, lines 44-54); and

Running the process at the chosen location (col. 4, lines 1-3 and lines 14-21; col. 6, lines 20-22; col.10, lines 50-67).

9. Ando does not explicitly teach the parsing, layout, and rendering processes. However AAPA teaches passing, layout and rendering (page 1, lines 11-13).

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching the Ando and AAPA because AAPA's series of processes would improve the quality of responses returned to client by making sure that all necessary process will be performed in a timely manner.

11. As to claim 2, AAPA teaches the client-server computing process is a web browsing process, and the server and clients are a browser server and a browser clients (page 1, lines 11-12).

12. As to claim 3, AAPA teaches the browser server communicates with a web server to retrieve information (page 1, lines 31-32).

13. As to claim 4, Ando teaches the load balancing determination is based at least in part on a quality of service determination of the quality of service provided by one or both of the client and server (col. 3, lines, 58-61; col.4, lines 24-35; col. 12, lines 44-50).

14. As to claim 5, Ando teaches the quality of service determination is based on latency of processes carried out on one or both the client and server (col. 15, lines 11-47).

15. As to claim 6, Ando teaches the load-balancing determination is based at least in part on the load of one or both of the client and server (col. 2, lines 13-15; col. 4, lines 25-31; col. 10, lines 1-8).

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16. As to claims 7-8, Ando teaches the load-balancing determination is based at least in part on the configuration of the clients and servers (col. 3, lines 59-62; col. 13, lines 1-8).

17. As to claim 9, Ando teaches the configuration on which the load-balancing determination is based is assumed to remain static after a load-balancing determination based on such configuration is made (col. 2, lines 63-67; col. 4, lines 25-41; col. 15, lines 51-55).

18. As to claims 10-11, Ando teaches the configuration on which the load-balancing determination is based is assumed to remain static after a load-balancing determination based on such configuration is made (col. 2, lines 48-51).

19. As to claims 12 and 14, Ando teaches the load-balancing determination is based on both the configuration of the clients and a quality of service determination of quality of service provided by one or both of the client and server (col. 4, lines 26-37).

20. As to claims 13 and 18, it is rejected for the same reason as claim 5.

21. As to claims 15-16, Ando teaches the layout and parsing processes are configured so that the location at which both processes are run may be changed between server and clients (col. 9, line 59-col. 10, line 4).

22. As to claim 17, Ando teaches during operation further changes are made to the location at which processes are carried out based on quality of service determination (col. 4, lines 26-41).

23. As to claims 19-20, Ando teaches the processes that are carried out at either server or client comprise distributed objects that migrate between client and server (col. 3, lines 58-62).

24. As to claim 21, Ando teaches a fetching process that can be run either the client or the server based on the outcome of a load-balancing determination (col.14, lines 1-14 and lines 42-50).

25. As to claim 22, Ando teaches the rendering process is always performed at the client (col. 9, line 63-col. 10, line 4 and lines 28-31; col. 19, lines 21-23).

26. As to claim 23, AAPA teaches a script evaluation and execution process that can be run at either the client or the server based on the outcome of a load balancing determination (page 1, lines 21-22).

27. As to claim 24, Ando teaches information is cached at the client, and the type information cached varied depending on which processes are running the client (col. 16, lines 57-64).

28. As to claim 25, Ando teaches the computing process of claim 1 wherein the load balancing determination is based of one or more of the following: client computational resource, client load, server computational resources, server load, number of clients per server, network traffic between clients and server, and security (col. 4, lines 25-35 ;col. 12, lines 43-49; col. 40, lines 6-8).

29. As to claim 26, Ando teaches the load balancing determination is based on one or more of the following: latency of processing a request downstream/upstream from a given process, and latency of processing a request of a given process (col. 15, lines 11-47)

30. As to claim 27, Ando teaches the processes are pre-configured on the clients and server, so that they may be run on demand, by activating a process on one of the client and server, and deactivating the corresponding process on the other of the client and server, approximately simultaneously (col. 10, lines 11-34).

31. As to claim 28, Ando teaches the ability to change the location at which processes are run may be locked to maintain the distribution of processes in a selected distribution (col. 10, lines 46-49)

32. As to claim 29, Ando teaches the processes that run at the server are interconnected by a switch (col. 3, lines 58-62; col. 18, line 3-5)

Response to the argument

33. This action is in response to the argument file on 3/4/2005. Applicant argued (1) "Ando never suggests that such run time changes be made in the location at which parsing, layout, and rendering processes are run".

34. Examiner respectfully traverses Applicant's remarks:

As to point (1), Ando teaches a distributed system which enables a dynamic system configuration that allows a decision at the time of execution as to whether the execution place of a process (server component which include component encrypting section, Fig. 6-7) should be take place on the server host or client host (col. 5, line 66 – col. 6, line 3; col. 41, lines 2-6).

35. Applicant's arguments filed 3/4/2005 for claims 1-29 have been considered but are moot in view of the new ground(s) rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camquy Truong whose telephone number is (571) 272-3773. The examiner can normally be reached on 8:00Am – 5:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3756.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Camquy Truong

June 4, 2005



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